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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

2217.0007cip

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Application Number

10/806,280

Filed

March 23, 2004

First Named Inventor

Philip Feldman, et al.

Art Unit

3713

Examiner

Nguyen, Kim T.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

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applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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Registration number if acting under 37 CFR 1.34

November 13, 2006



Date

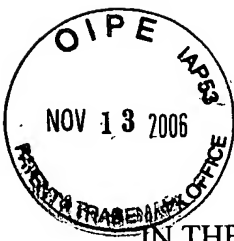
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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*Total of _____ forms are submitted.

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Attorney Docket No.: 2217.0007CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the PATENT application of

Philip Feldman et al.

Serial No.: 10/806,280

Filed: March 23, 2004

Examiner: Nguyen, Kim T.

Group Art Unit: 3713

For: Game Controller Support Structure and Isometric Exercise System and Method of Facilitating User Exercise During Game Interaction

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request a Pre-Appeal Brief Review of the outstanding issues raised in the Final Office Action of June 16, 2006. Applicants believe there exist clear errors in the Examiner's Final rejections as discussed below.

THE PRESENT INVENTION

The present invention is directed toward a game controller support structure configured to require a user to operate a game controller in a standing position during game play. The support structure includes a frame with a base, a body support, a game controller and a stand. The stand is attached to the base and supports the game controller, while a user lower body is engaged by the body support. The stand and body support may be adjustable to accommodate various users. In addition, the support structure may be in the form of an isometric exercise system that enables

the user to perform isometric exercises during game play to interact with the game.

FINAL OFFICE ACTION

In the Final Office Action, the Examiner objected to claims 1 and 23 due to informalities and has rejected claims 1 - 5 and 7 - 43 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,514,145 (Kawabata et al.) in view of JP 11-309270 (Terutaka).

In particular, the Examiner has objected to claims 1 and 23 due to informalities and takes the position the term “a user” within these claims should be changed to “the user”. Applicants disagree with this objection, but are willing to amend claims 1 and 23 in accordance with the Examiner’s suggestion in order to expedite prosecution of the subject application.

The Examiner has rejected claims 1 - 5 and 7 - 43 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,514,145 (Kawabata et al.) in view of JP 11-309270 (Terutaka). Initially, claims 1 - 5 and 7 - 43 include independent claims 1, 20, 23 and 41. Independent claims 1 and 23 recite the features of: a base in the form of a platform to directly support a user thereon; a rod secured to the base with a game controller directly attached to a rod upper portion; and a body support secured to the base to support a user lower body portion.

The Kawabata et al. patent does not disclose, teach or suggest these features. Rather, the Kawabata et al. patent discloses a height adjustable game machine having a structure that can be easily adapted to a stand-up type and a sit-down type depending on situations. Each of a game controller, a game operation panel and a monitor is set as a unit. A base unit accommodating the controller, the game operation unit and the monitor unit are held between opposed columns in this order from the bottom (e.g., See Abstract and Figs. 1, 5 and 6).

The Examiner takes the position that the base, game operation unit and column disclosed within the Kawabata et al. patent read on the claimed base, game controller and rod, respectively. However, the base within the Kawabata et al. patent relied upon by the Examiner does not directly support a user thereon as recited in independent claims 1 and 23. In fact, the Kawabata et al. patent expressly discloses that the base is positioned to avoid interference with user legs and feet (e.g., See Figs. 5 and 6; Column 2, lines 48 - 53 and 59 - 63; Column 4, lines 44 - 49; and Column 6, lines 62 - 67).

In addition, the Examiner takes the further position that Fig. 5 of the Kawabata et al. patent illustrates the claimed body support. However, there is no disclosure, suggestion or teaching that the seat supporting a user illustrated in Fig. 5 is secured to the base as recited in independent claims 1 and 23. In fact, the figures within the Kawabata et al. patent illustrate the structure as a stand-alone structure (e.g., See Figs. 1 and 3), while Fig. 5 is an exemplary application of the sit-down type structure for use with a chair (e.g., See Column 3, lines 60 - 61 and Column 6, lines 54 - 56).

The Examiner concedes that the Kawabata et al. patent does not disclose the claimed feature of attaching the game controller to an upper portion of the rod, and further alleges that the Terutaka publication discloses this feature and that it would have been obvious to combine the teachings of the Kawabata et al. patent and Terutaka publication to attain the claimed invention.

The Terutaka publication does not render the claimed invention obvious nor does this publication compensate for the above-discussed deficiencies of the Kawabata et al. patent. Rather, the Terutaka publication discloses an imitation rod for a general purpose game device that measures the rotary motion of a handle relative to a handle support and the position of that support. Position measuring equipment (e.g., angular velocity sensor) is set inside of a controller

support body to measure the position of the controller when a user operates the controller like a fishing rod. A handle is set at the right side of the controller to simulate a fishing reel. The rotary motion of the handle is measured by equipment inside of the support body (e.g., See Abstract).

Since the Terutaka publication discloses a hand-held device, there is no disclosure, teaching or suggestion of a base in the form of a platform to directly support a user thereon, or a body support secured to the base to support a user lower body portion as recited in independent claims 1 and 23. With respect to the claimed feature of the game controller directly attached to a rod upper portion, the Kawabata et al. patent discloses placement of a monitor above the game operation unit (construed as the claimed game controller by the Examiner) within the structure as discussed above. If the game operation unit were placed above the monitor as the Examiner proposes to reject the claims, this would place the controls virtually out of reach for a seated user, and complicate operation of the game machine since the user (standing or seated) would likely be in an awkward position and/or obstruct the view of the monitor to actuate the controls. Thus, there is no apparent reason, suggestion or motivation to modify the Kawabata et al. patent in this fashion, and the proposed combination of the Kawabata et al. patent and Terutaka publication does not render the claimed invention obvious.

Independent claims 20 and 41 recite the features of: a rod with a game controller directly attached to a rod upper portion; and the rod providing an isometric exercise for the user.

The Examiner takes the position that claim 20 is rejected for the same reasons as claims 1 and 3, while claim 41 is rejected for the same reasons as claims 1 - 21.

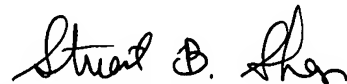
Initially, the combination of the Kawabata et al. patent and Terutaka publication does not disclose, teach or suggest the feature recited in independent claims 20 and 41 of a rod with a game controller directly attached to a rod upper portion as discussed above.

With respect to the claimed feature of the rod providing an isometric exercise, the Kawabata et al. patent and Terutaka publication are devoid of any disclosure, teaching or suggestion of this feature. As discussed above, the Kawabata et al. patent discloses a game machine structure, while the Terutaka publication discloses an I/O device to simulate fishing. Although the Terutaka publication discloses measuring rotary motion and position of the device, the device simply does not provide an isometric exercise, but rather, merely measures manipulation of the device by a user to simulate a fishing activity.

Since the Kawabata et al. and Terutaka publication do not disclose, teach or suggest, either alone or in combination, the features recited in independent claims 1, 20, 23 and 41 as discussed above, these independent claims and their corresponding dependent claims are considered to overcome the rejections.

In view of the foregoing, Applicants respectfully request withdrawal of the outstanding rejections and allowance of the application.

Respectfully submitted,



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